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NY Black and Gold Corporation

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

11 NY BLACK AND GOLD
12 CORPORATION, a California
corporation,

Plaintiff.

V.

15 BEAUTY BEEZ, INC., a California
16 corporation; BRITTNEY OGIKE, an
individual; and DOES 1-10, inclusive,

Defendants.

Case No. 2:23-cv-170

COMPLAINT FOR COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)

DEMAND FOR JURY TRIAL

1 NY Black and Gold Corporation (“BG”), by and through its attorneys of
2 record, complains against Beauty Beez, Inc. (“Beauty Beez”), Brittney Ogike, and
3 DOES 1-10, inclusive, (collectively “Defendants”) as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a civil action against Defendants for their acts of copyright
6 infringement in violation of the United States Copyright Act, 17 U.S.C. §§ 101 et
7 seq.

8 2. This Court has subject matter jurisdiction over this copyright
9 infringement action under 28 U.S.C. §§ 1331, 17 U.S.C. § 501(a), and 28 U.S.C. §
10 1338(a).

11 3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and
12 28 U.S.C. § 1400(a) in that the claim arises in this Judicial District, the Defendants
13 transact business in this Judicial District, and the injury suffered by BG took place
14 in this Judicial District. Defendants are subject to the general and specific personal
15 jurisdiction of this Court because of their contacts with the State of California.

16 **PARTIES**

17 4. Plaintiff BG is an image-centric social media company, owned and
18 operated by fine art photographer Elizabeth Waterman and registered with the State
19 of California on or around August 30, 2020. BG is the successor by legacy merger
20 of “BLACK + GOLD CORPORATION” and “NY BLACK and GOLD
21 CORPORATION” to BG on March 29, 2021. BG is a California corporation with
22 its principal place of business at 3103 17th Street, Santa Monica, California 90405.

23 5. BG is informed and believes and, upon such, alleges that Defendant
24 Beauty Beez is a corporation formed under the laws of California, which has a
25 principal place of business at 6522 Laurel Canyon Blvd. North Hollywood,
26 California 91606.

27 6. BG is informed and believes and, upon such, alleges that Defendant
28 Brittney Ogike is an individual residing in North Hollywood, California.

1 7. DOES 1 through 10, inclusive, are unknown to BG, who therefore sues
2 said Defendants by such fictitious names. BG will ask leave of Court to amend this
3 Complaint and insert the true names and capacities of said Defendants when the
4 same have been ascertained. BG is informed and believes and, upon such, alleges
5 that each of the Defendants designated herein as a “DOE” are legally responsible in
6 some manner for the events and happenings herein alleged, and that BG’s damages
7 as alleged herein were proximately caused by such Defendants.

STATEMENT OF FACTS

Plaintiff's Business and the Photographs Forming

the Subject Matter of This Dispute

11 8. As part of BG's business as a bespoke, image-centric social media
12 company, BG is hired by a variety of top-tier brands to take photographs of
13 commercial products and provide strategy to innovate brands' marketing processes.
14 BG has created photographs for some of the most sought-after companies, such as
15 *Alex & Ani, Marc Jacobs, Elie Tahari, Guess, The Met, Moroccan Oil* and many
16 others.

17 9. Elizabeth Waterman, BG's Photographer and CEO, is an award-
18 winning photographer earning recognition from organizations such as the *British*
19 *Journal of Photography*, the *Prix de la Photographie*, *The Biennal for Fine Art and*
20 *Photography*, and *The Smithsonian*. Waterman also has an extensive commercial
21 and editorial portfolio. Her photographs have been featured in shows at the old
22 Limelight Church/Jue Lan Club (NYC), Wallplay (NYC), and Olson-Irwin
23 (Sydney), auctioned on *Artnet.com*, and showcased on *L'Oeil de La*
24 *Photographie.com*.

25 10. As an integral part of BG's business model, BG photographs products
26 and then licenses its photographs on an exclusive and non-exclusive basis depending
27 on the scope, nature and price for the work. BG has licensed individual images of
28 products for thousands of dollars to top brands and retailers. Notably, 95% of BG's

1 contracts are exclusive and non-transferable.

2 11. BG has created many stylized and high production value photographs
3 of commercial products. Among them are photographs of various commercially
4 popular products sold by the company Curls. In the last decade, Curls has emerged
5 as a leader in the natural hair care industry, with the CEO frequently speaking at
6 conferences and shows to retail industry giants. Curls has been endorsed by
7 celebrities such as Halle Berry, Alicia Keys, Nia Long, Tia Mowry, Blair
8 Underwood, Ashanti, Yvette Nicole Brown, and Echo Kellum. Indeed, Curls
9 continues to be one of the most recognized natural hair care brands in North
10 America.

11 12. BG authored the iconic images of Curls' products that accompany this
12 powerhouse brand. These iconic images have been licensed for many thousands of
13 dollars. Nine of these images ("Photos") are the images at issue in this dispute. In
14 the marketplace, professional product photographs, such as the Photos, carry
15 tremendous monetary value. BG licenses these images to brands to create highly
16 sought-after online marketing materials and advertisements.

17 13. BG has timely obtained the copyright registration for the Photos with
18 the United States Copyright Office. The Photos were registered before Defendants'
19 copyright infringement of the same. *See* VA 2-205-488.

The Defendants and the Marketplace

21 14. Defendant Beauty Beez is a third-party retailing website focused on the
22 sale of beauty and hair care products. The site proclaims that Beauty Beez is a one-
23 stop shopping experience providing “the most sought after brands and products in
24 hair and beauty and services expertly tailored to [customers’] needs”. In addition,
25 Defendant Beauty Beez has registered its name with the USPTO, demonstrating that
26 it seeks to protect its own content from infringement.

27 15. On information and belief, Beauty Beez makes revenue through selling
28 commercial hair and beauty products on its websites.

1 16. On information and belief, Defendant Brittney Ogike owns, manages,
2 and operates Beauty Beez. Indeed, according to the “story” section of the Beauty
3 Beez website, Ogike built and runs Beauty Beez.

4 17. In spite of Defendants' awareness of the importance of intellectual
5 property rights and their potential to incur liability for the infringement of the same,
6 Defendants infringed BG's copyright to the Photos. A true and correct copy of the
7 infringements are attached as **Exhibit A**, which demonstrates that the Photos were,
8 at least, reproduced, publicly displayed and distributed by Defendants. Indeed, as of
9 the filing of this complaint, Defendants still infringe the Photos.

10 18. Plaintiff is informed and believes that Defendants have violated federal
11 law by willfully infringing BG's copyrights to at least the Photos identified in
12 Exhibit A. Specifically, Defendants reproduced, displayed and distributed the
13 Photos, and/or derivatives thereof without permission, consent, or license.

14 19. BG has never sold or licensed the Photos to Defendants. Likewise,
15 Curls has never sublicensed the Photos to Defendants either.

16 20. Plaintiff is informed and believes that Defendants have driven
17 significant traffic to the Beauty Beez website in large part due to the presence of the
18 sought after and searched for products that were photographed that frame this
19 dispute. All of this traffic translates into substantial ill-gotten commercial advantage
20 and revenue generation for Defendants as a direct consequence of their infringing
21 actions.

FIRST CLAIM FOR RELIEF

(Copyright Infringement, 17 U.S.C. § 501, Against All Defendants)

24 21. Plaintiff BG incorporates herein by reference the allegations in
25 paragraphs 1 through 20 above.

26 22. BG is the rightsholder to the copyright of the Photos, which
27 substantially consist of wholly original material that constitute copyrightable subject
28 matter under the laws of the United States. BG has complied in all respects with the

1 Copyright Act and all of the laws of the United States governing copyrights. The
2 Photos have been timely registered with the United States Copyright Office. *See* VA
3 2-205-488.

4 23. Defendants have directly, vicariously, and/or contributorily infringed,
5 and unless enjoined, will continue to infringe BG's copyrights by reproducing,
6 displaying, distributing, and utilizing the Photos for purposes of trade without
7 authorization of or payment to BG in violation of 17 U.S.C. § 501 et seq.

8 24. Defendants have willfully infringed, and unless enjoined, will continue
9 to infringe BG's copyrights by knowingly reproducing, displaying, distributing, and
10 utilizing the Photos for purposes of trade.

11 25. Plaintiff is informed and believes that Defendants' acts of infringement
12 are willful because, *inter alia*, the Defendants are sophisticated businesses with full
13 knowledge of the strictures of federal copyright law and the basic requirements for
14 licensing the use of copyrighted content for commercial exploitation.

15 26. Plaintiff is informed and believes that Defendants, despite such
16 knowledge, willfully reproduced and distributed the Photos, without any right to do
17 so.

18 27. Defendants have received substantial benefits in connection with the
19 unauthorized reproduction, distribution, and utilization of the Photos for purposes of
20 trade, including by increasing the traffic to their websites and use of their services.

21 28. Defendants' unauthorized actions were and are continuing to be
22 performed without BG's permission, license, or consent.

23 29. Defendants' wrongful acts have caused, and are causing, great injury to
24 BG, of which damages cannot be accurately computed, and unless this Court
25 restrains Defendants from further commission of said acts, BG will suffer
26 irreparable injury, for all of which it is without an adequate remedy at law.
27 Accordingly, BG seeks a declaration that Defendants are infringing BG's copyrights
28 and an order under 17 U.S.C. § 502 enjoining Defendants from any further

1 | infringement of BG's copyrights.

2 30. As a result of Defendants' wrongful acts alleged herein, BG has
3 suffered and is suffering substantial damage to its business in the form of diversion
4 of trade, loss of profits, injury to goodwill and reputation, and the dilution of the
5 value of its rights, all of which are not yet fully ascertainable.

6 31. Because of the willful nature of Defendants' copyright infringement,
7 BG is entitled to an award of statutory damages of up to \$150,000 per copyrighted
8 work.

9 32. BG has identified at least nine copyrighted works infringed by
10 Defendants, which occurred by way of reproduction, public distribution, and public
11 display of the Photo on the Defendants' website. As such, BG is entitled to an
12 award of \$1,350,000 in statutory damages.

13 33. Alternatively, at its discretion, BG is entitled to actual damages in an
14 amount to be proven at trial for the infringement of all works at issue.

15 34. BG is also entitled to its attorneys' fees and costs in prosecuting this
16 action.

PRAYER FOR RELIEF

18 WHEREFORE, Plaintiff BG requests judgment against Defendants as
19 follows:

20 1. The Defendants, their officers, agents, servants, employees,
21 representatives, and attorneys, and all person in active concert or participation with
22 them, be permanently enjoined from designing, copying, reproducing, displaying,
23 promoting, advertising, distributing, or selling, or any other form of dealing or
24 transaction in, any and all advertising and promotional materials, print media, signs,
25 Internet websites, or any other media, either now known or hereafter devised,
26 bearing any design or mark which infringe, contributorily infringe, or vicariously
27 infringe upon BG's rights in the photographs at issue.

28 ||| 2. Defendants be held liable to BG in statutory damages for copyright

1 infringement, including willful infringement, in accordance with 17 U.S.C. §§ 504
2 (a)(2) and (c) and for costs, interest, and reasonable attorney's fees pursuant to 17
3 U.S.C. § 505.

4 3. An accounting be made for all profits, income, receipts, or other benefit
5 derived by Defendants from the reproduction, copying, display, promotion,
6 distribution, or sale of products and services, or other media, either now known or
7 hereafter devised that improperly or unlawfully infringes upon BG's copyrights
8 pursuant to 17 U.S.C. § 504 (a)(1) and (b).

9 4. Requiring Defendants to account for and pay over to BG all profits
10 derived by Defendants from their acts of copyright infringement and to reimburse
11 BG for all damages suffered by BG by reasons of Defendants' acts, pursuant to 17
12 U.S.C. §§ 504 (a)(1) and (b).

13 5. Actual damages for copyright infringement pursuant to 17 U.S.C. §§
14 504 (a)(1) and (b).

15 6. That BG be awarded any such other and further relief as the Court may
16 deem just and appropriate.

18 | Dated: January 10, 2023

ONE LLP

By: /s/ Alec Schulman

Peter Afrasiabi

Alec Schulman

Attorneys for Plaintiff

NY Black and Gold Corporation

DEMAND FOR JURY TRIAL

Plaintiff BG hereby demands a trial by jury as to all claims and all issues properly triable thereby.

Dated: January 10, 2023

ONE LLP

By: /s/ Alec Schulman

Peter Afrasiabi

Alec Schulman

Attorneys for Plaintiff
NY Black and Gold Corporation